



Board of Adjustment Case Report

City of Raleigh
Department of City Planning
One Exchange Plaza
Raleigh, NC 27601
(919) 996-2626
www.raleighnc.gov

Case File: A-71-17

Property Address: 101 Pineland Circle

Property Owner: James Falkenbury and Amanda Styron

Project Contact: Amanda Styron

Nature of Case: A request for a 12' variance from the fence requirements of Section 7.2.8.C. of the Unified Development Ordinance to build a 6' tall fence within 3' of their property line bordering Western Boulevard on a .14 acre parcel zoned Residential-10 and located at 101 Pineland Circle.



101 Pineland Circle – Location Map

To BOA: 5-8-17

Staff Coordinator: Eric S. Hodge, AICP

**ZONING
DISTRICTS:** Residential-10



101 Pineland Circle – Zoning Map

VARIANCE STANDARDS: In accordance with UDO [§10.2.10 Variance](#), before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions

that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

Zoning District Standards: The subject property is zoned Residential-10

Lot Dimensions

Area (min)	4,000 SF
Width – interior lot (min)	45
Width – corner lot (min)	60'
Depth -	60;'

Yard Type

Minimum Setback

Primary Street	10'
Side Street	10'
Side	5'
Sum of Sides	10'
Rear	20'

Sec. 7.2.8. Walls and Fences

A. Applicability

The following requirements apply to walls and fences located outside of a protective yard or required screening area.

B. General Standards

1. Fences and walls must be constructed of high quality materials including 1 or a combination of the following: decorative blocks; brick; stone; cast-stone; architectural block; split-faced block; stucco over standard concrete masonry blocks; glass block; wood; wrought iron; composite fencing; wire; PVC vinyl; aluminum; metal or other material approved by the Planning Director.

2. No wall or fence can be located within any tree conservation area.

3. No wall or fence can be located within any City of Raleigh utility easement without prior written approval of the Director of Public Utilities.
4. No wall or fence can be located within any required drainage easement without prior written approval of the Public Works Director.
5. Barbed wire or concertina wire may be allowed in accordance with Sec. 13- 3011.
6. Except in an IH district, chain-link fences are not allowed in any front or side street setback.
7. The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections or a change in material.
8. Except in an IH district, a wall or fence not more than 6 and one half feet in height may be located in a front or side street setback, provided the opacity of the wall or fence above 4 feet in height does not exceed 50%.
9. A wall or fence may not exceed 8 feet in height in a side or rear setback unless it is located adjacent to a street, in which case it may be no more than 6 and one half feet in height, provided the opacity of the wall or fence above 4 feet in height does not exceed 50%.

Cross reference: The Director of Public Utilities may approve structures within City of Raleigh utility easements, Sec. 8-2012(d).

C. Fences and Walls Adjacent to Thoroughfares

1. A fence or wall located within 20 feet of a Thoroughfare right-of-way shall either be less than 42 inches in height or situated at least 15 feet from the edge of the right-of-way and be screened with Evergreen planting materials, so that no more than one-fourth of the fence or wall surface area will be visible from the Thoroughfare within 3 years of erection of the fence or wall.

2. All fences and walls that are more than 42 inches in height and are located between 20 and 40 feet from any Thoroughfare right-of-way shall be installed with planting materials, so that no more than one third of the fence or wall surface area will be visible from the Thoroughfare within three years of erection of the fence or wall. 40% of this plant material may be deciduous. Decorative fences that are more than 50% open shall be exempt from these provisions.

D. Retaining Walls Retaining walls that are located within 30 feet of a public sidewalk shall be required to adhere to the following.

1. A retaining wall may not exceed a continuous, uninterrupted height of 15 feet. Additional height may be permitted, provided the wall contains a 2-foot step back for each 15 feet of wall height. 2. This regulation shall not apply to walls associated with culverts or stream crossings or to transportation improvements, such as bridge overpass structures for streets or railroads.

Application for Variance



Department of City Planning | 1 Exchange Plaza, Suite 300 | Raleigh, NC 27601 | 919-996-2626

Submit application to: Development Services Customer Service Center, 1 Exchange Plaza, Suite 400, Raleigh, NC 27601

NATURE OF REQUEST	OFFICE USE ONLY
Nature of variance request (if more space is needed, submit addendum on separate sheet): See Attachment A	Transaction Number A-70-17
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions, or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number. n/a	

GENERAL INFORMATION					
Property Address	101 Pineland Circle Raleigh, NC 27606	Date	4.5.17		
Property PIN	0784611452	Current Zoning	R-10		
Nearest Intersection	Pineland Circle & Western Boulevard	Property size (in acres)	.14 acres		
Property Owner	James Falkenbury & Amanda Styron	Phone	252.241.6366	Fax	n/a
Owner's Mailing Address	101 Pineland Circle Raleigh, NC 27606	Email	amandamstyron@gmail.com; jfalkenbury@gmail.com		
Project Contact Person	Amanda Styron	Phone	252.241.6366	Fax	n/a
Contact Person's Mailing Address	same as above	Email	amandamstyron@gmail.com		
Property Owner Signature		Email	jfalkenbury@gmail.com		
Notary	Notary Signature and Seal				
Sworn and subscribed before me this <u>5th</u> day of <u>April</u> , 20 <u>17</u>					
 my commission expires 9/19/2017					

Attachment A: Nature of Request

We are requesting a 12-foot variance from the fence requirements of UDO § 7.2.8(c) to build a six-foot fence along the southern side boundary of our property, which borders Western Boulevard. With the 12-foot variance, the fence would be three feet from the right-of-way, but would be more than 30 feet from Western Boulevard.

101 Pineland Circle was a spec house that was built with a six-foot fence along the property line. Since the Western Boulevard right-of-way extends more than 27 feet from the street to the property line, safety was never brought up as a concern, as cars had to pull up past the fence and the trees located in the right-of-way before reaching the Western Boulevard intersection. Additionally, the property was inspected on multiple occasions and the location of the fence was never mentioned as an issue. When it came time for the builder to get the certificate of occupancy, they applied for a fence permit and were made aware of UDO § 7.2.8(c), which requires fences 42 inches or higher to be situated at least 15 feet from the right-of-way of a thoroughfare. Seeing as our dog could easily clear a fence shorter than 42 inches, and taking into account our need to address road noise, security, and privacy, we were left with two options: back out of the contract and not purchase the property; or allow the builder to move the fence in order to obtain the certificate of occupancy, then seek a variance after we purchased the house. At this stage (one day before we were scheduled to close on the house), our only realistic option was to move forward with the purchase and pursue a variance.

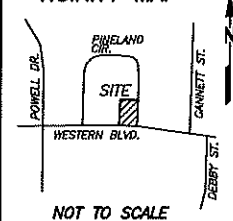
Our lot is 6,000 square feet (100 ft x 60 ft). UDO § 7.2.8(c) applies to the southern boundary, which is 100 feet long. Given the nature of the location (a busy road where debris frequently lands in the yard or hits side of the house), a strict application of the ordinance prevents us from making meaningful use of 1,500 square feet (25 percent) of our lot. Without the fence, our only time spent on that portion of the lot has been watering the lawn and picking up litter and other debris that makes its way onto our property from Western Boulevard. Further, the amount of road noise that is audible from inside the house has increased significantly since the fence was removed.

We understand the need for UDO § 7.2.8(c) as it pertains to both safety and aesthetics throughout the city. However, we believe that, given these circumstances – where the fence would be located more than 30 feet from the street and does not create a safety issue, where the ordinance would effectively prevent us from making any meaningful use of 25 percent of our property, where the property is across the street from a number of commercial buildings, and where the property is located along a relatively high-speed, high-traffic thoroughfare – a strict application of the ordinance would result in unnecessary hardship. The builder's team has assured us they are willing to install any landscaping needed to camouflage the fence, and they have provided elevations that are included with this application. We believe that this landscaping, along with the trees and shrubbery that already exist in the right-of-way, would adequately conceal the fence and the end-result would be consistent with the spirit of the ordinance.

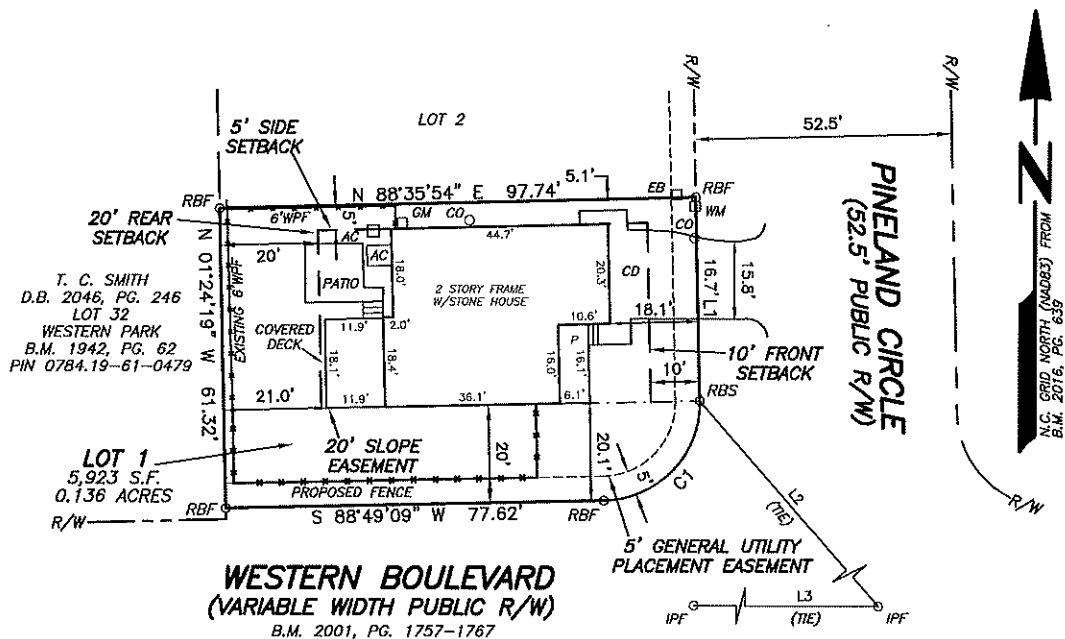
CURVE TABLE						
CURVE	DELTA	RADIUS	ARC	CHORD	TANGENT	CHORD BRG
C1	90°09'58"	20.00'	31.47'	28.33'	20.06'	S 43°44'10" W

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S 01°20'49" E	41.64'
L2	S 40°56'37" E	202.50'
L3	N 89°43'28" W	309.55'

VICINITY MAP



REFERENCES:
1. D.B. 15932, PG. 1287
PIN 0784.19-61-1452
REID 0045154



NOTES:

1. ALL EASEMENTS, RIGHTS OF WAY AND BOUNDARY INFORMATION TAKEN FROM AN P.B. 2016, PG. 639 UNLESS OTHERWISE NOTED
2. PROPERTY IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD. NO TITLE EXAMINATION HAS BEEN DONE BY ROBINSON & PLANTE, P.C.
3. ALL CONSTRUCTION SHALL BE DONE PER CITY OF RALEIGH STANDARDS AND SPECIFICATIONS.
4. MINIMUM CORNER CLEARANCE FROM CURB LINE OF INTERSECTION STREETS SHALL BE AT LEAST 20 FEET FROM POINT OF TANGENCY.
5. FIRE HYDRANT NOTE: AS PER THE CITY OF RALEIGH REQUIREMENTS ON PUBLIC R/W, FIRE HYDRANTS ARE PLACED SO AS THE BACK EDGE OF THE HYDRANT IS AT OR ON THE R/W LINE. IN ORDER TO PROVIDE ACCESS TO THESE FIRE HYDRANTS, A 2'x2' EASEMENT IS HEREBY DEDICATED CENTERED ON THE LOCATION OF THE FIRE HYDRANT AND BEING PERPENDICULAR AND PARALLEL TO THE R/W LINE. THIS SHALL APPLY TO ALL FIRE HYDRANTS WHICH ARE PLACED WITHIN 2' OF THE R/W LINE.

LEGEND

(IPF)—IRON PIPE FOUND
(RBF)—REBAR FOUND
(RBS)—REBAR SET
(WPF)—WOODEN PRIVACY FENCE
(CD)—CONCRETE DRIVEWAY
(AC)—AIR CONDITIONER
(GM)—GAS METER
(CO)—CLEANOUT
(WM)—WATER METER
(EB)—ELECTRIC BOX
(P)—PORCH

SETBACKS

(ZONED R-10)
FRONT YARD—10'
SIDE YARD—5'
REAR YARD—20'
CORNER SIDE—10'

PRELIMINARY PLAT— NOT FOR RECORDATION,
CONVEYANCE, OR SALE

EXHIBIT FOR
MANGRUM BUILDERS

LOT 1 PINELAND CIRCLE SUBDIVISION
101 PINELAND CIRCLE
WAKE COUNTY
RALEIGH, N.C. 27606



REFERENCE: BOOK OF MAPS 2016 PAGE 639

FILE: PLCL01EXB

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION DESCRIPTION RECORDED IN REFERENCES AS SHOWN; THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN THAT THE RATIO OF PRECISION IS 1:10,000; AND THAT THIS MAP MEET THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.16000).
THIS DAY OF , 2017.

PROFESSIONAL LAND SURVEYOR L-4433

ROBINSON & PLANTE PC
LAND SURVEYING
C-2687
1240 SE MAYNARD ROAD
SUITE 203
CARY, N.C. 27511
PHONE (919) 481-1245
FAX (919) 481-1213

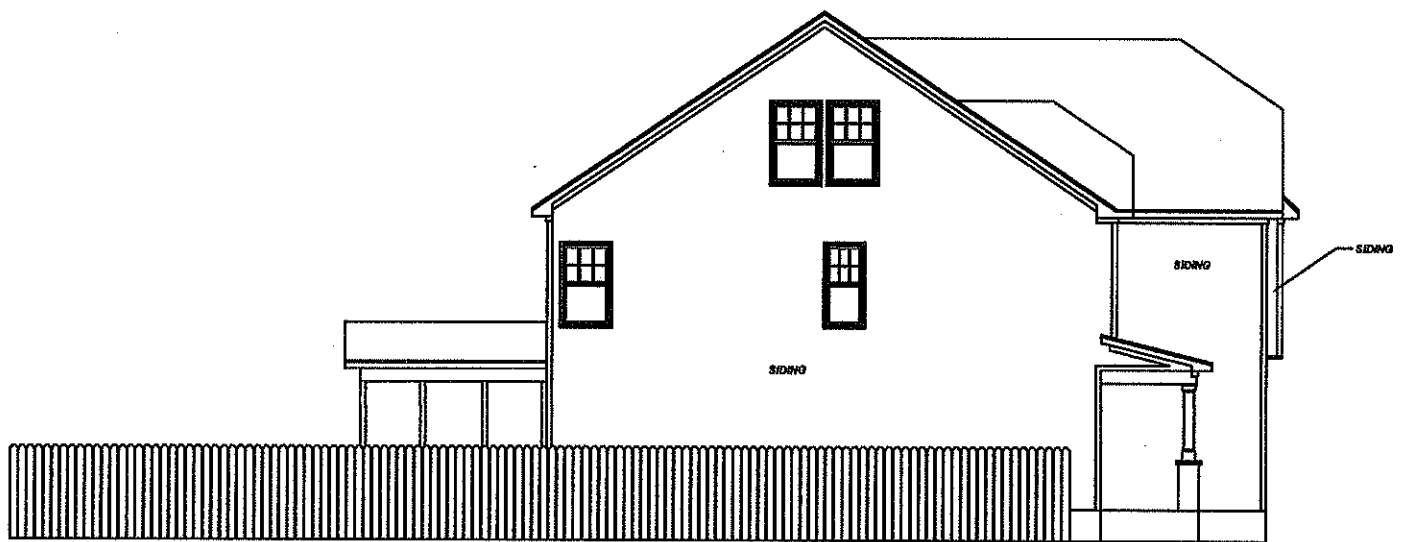
DATE: 4-13-17

SCALE: 1"=30'



FRONT ELEVATION

$\frac{1}{4}" = 1'-0"$



LEFT ELEVATION

$1/8" = 1'-0"$

T.C. and Josie Smith
4307 Driftwood Drive
Raleigh, NC 27606
(Property location: 5006 Western Blvd)

Robert F. Russell
1421 Hunting Ridge Rd.
Raleigh, NC 27615
(Property location: 4922 Western Blvd; 102 Pineland Circle)

Mangrum Building LLC
355 Red Fox Ridge Rd.
Cameron, NC 28326
(Property location: 103 Pineland Circle; 103 ½ Pineland Circle)

Daud and Mary Lind Mahmud
101 ½ Pineland Circle
Raleigh, NC 27606
(Property location: 101 ½ Pineland Circle)